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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,960	06/29/2001	Randall D. Shoemaker	P00494-US-1 (11049.0013)	9988
22446	7590	04/13/2006	EXAMINER	
ICE MILLER LLP ONE AMERICAN SQUARE, SUITE 3100 INDIANAPOLIS, IN 46282-0200			LOFTIS, JOHNNA RONEE	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/896,960

Applicant(s)

SHOEMAKER ET AL.

Examiner

Johnna R. Loftis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The following is a final office action upon examination of application number 09/896,960. Claims 1-21 are pending and have been examined on the merits discussed below.

#### ***Response to Arguments***

2. Applicant's arguments filed 2/2/06 have been fully considered but they are not persuasive. Applicant first argues that there is no motivation or suggestion to modify Hohl found either explicitly or implicitly within Hohl. It was known at the time of the invention that merely providing an automatic means to replace a manual activity which accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). For example, simply automating the steps of providing customer surveys to respondents and receiving survey answers at a central computer over a network gives just what one would expect from the manual step as shown in Hohl; collecting customer surveys and determining an action plan to carry out in response to negative feedback. In other words, there is no enhancement found in the claimed step other than the known advantage of increased speed and organization. The end result is the same as compared to the manual method. Furthermore, it is inherent to automation of a known manual process that data is stored, processed and transferred from computer to computer over a network.

3. With respect to claims 1, 11 and 20, Applicant argues that the claimed databases would not be obvious over Hohl. As taught in Hohl, a quality assurance committee and subsequently individual case managers review the survey responses. This is evidence that the information about customer satisfaction comments and/or issues are not disposed of, but are saved in order to

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be distributed to case managers. This supports Examiners stance that it would have been obvious to modify Hohl in such a way to provide an automated system, which inherently would include a storage device to store the customer responses so they could be distributed.

4. As for Applicants arguments directed to Hohl not suggesting the identification of a customer satisfaction issue of the selected respondent, Examiner points out that, as claimed, the customer satisfaction issue of a selected respondent is reviewed by a manager, wherein the manager develops an action plan. Hohl teaches case managers who receive copies of patient surveys for each patient, wherein the case manager then investigates and follows up with the patient. As taught in paragraph 18 of Hohl, staff investigation, in one case, indicated that patient had either forgotten instructions or misunderstood a question; an action plan was developed that correlated to the issue.

5. As for Applicants arguments regarding the account management tool. Examiners understands the account management tool to be a database wherein data is stored relating to the customers and the action plans put in place. Hohl teaches case managers who receive copies of patient surveys for each patient, wherein the case manager then investigates and follows up with the patient. Hohl also teaches that the survey process provides an opportunity for the agency to learn and improve. It would have been obvious that within the automation of the method of Hohl that information regarding the patients and surveys would be stored in such a way that it could easily be accessed for the purposes of learning and improving the agency.

6. In light of the above comments, prior rejections of the claims are upheld.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohl, "Patient satisfaction in home care/hospice".

As per claim 1, Hohl teaches providing a customer satisfaction survey containing a plurality of customer satisfaction questions to a selected respondent of the plurality of customer respondents, the customer satisfaction survey accessible by the selected respondent (page 3, paragraph 14 – page 4, paragraph 17 – a plurality of patients discharged from the hospice program are sent a patient satisfaction survey); receiving survey answers from the selected respondent (page 3, paragraph 14 – the responses from patients are investigated and a follow-up is performed – inherently the answers to the survey are received); processing the survey answers to identify a customer satisfaction issue of the selected respondent (page 4, paragraph 17 – the results are tabulated and any question with less than a 90 percent favorable response rate requires intervention and development of an action plan); flagging the customer respondent for follow-up action based upon the customer satisfaction issue of the selected respondent (any question with less than a 90 percent favorable response rate requires intervention and development of an action plan – there is inherently a flagging or alert operation being performed to indicate those surveys with less than 90 percent favorable response rate); and providing the customer satisfaction issue of the selected respondent to one of the plurality of company managers (page 4, paragraph 17 – a

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case manager is assigned the survey responses and are responsible for investigation), thereby prompting the one of the plurality of company managers to develop an action plan designed to address the customer satisfaction issue of the selected customer respondent (page 4, paragraph 17 - any question with less than a 90 percent favorable response rate requires intervention and development of an action plan for resolution of the issue). Hohl does not explicitly teach the use of a central computer connected to a plurality of remote computers through a network used to store information about managers and customer respondents and also to provide customer surveys and to receive customer complaints, nor does Hohl teach using the computer to provide the customer satisfaction issue to a manager. However, the use of the Internet and computer systems to automate the transfer of data between remote locations is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the process of Hohl because the advantage of using a computer system over the Internet allows users to transmit survey data between customers and managers regardless of physical location.

As per claim 2, Hohl teaches the development of an action plan but does not explicitly teach entering the action plan into the at least one database. However, the use of the Internet and computer systems to transfer and store data is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the process of Hohl using a computer system because the advantage of using a computer system over the Internet allows users to store data for later retrieval and also to transmit data between customers and managers regardless of physical location.

As per claim 3, Hohl teaches implementing the action plan to obtain action plan results (page 4, paragraphs 17 and 18 – based on results of the surveys action plans are developed; paragraph 18 recites an example of one such action plan).

As per claim 4, Hohl teaches determining an action plan but does not explicitly teach associating a score with the action plan based upon the action plan results. However, it is old and well known in the art of quality management to evaluate the results of an action plan to determine if the strategy put in place is having a negative or positive effect on the issue. It would have been obvious to one of ordinary skill in the art at the time of the invention to determine an associated score for the action plan to assist management in knowing whether implemented action plans or strategies are beneficial to the resolution of issues.

As per claim 5, Hohl teaches case managers who are responsible for investigation and implementation of an action plan and also teaches posting favorable surveys for all to see, but does not explicitly teach scoring the action plan based upon the action plan results. However, it is old and well known in the art of quality management to evaluate the results of an action plan to determine if the strategy put in place is having a negative or positive effect on the issue. It would have been obvious to one of ordinary skill in the art at the time of the invention to determine an associated score for the action plan to assist management in knowing whether implemented action plans or strategies are beneficial to the resolution of issues.

As per claim 6, Hohl teaches inviting patients to complete a satisfaction survey, but does not explicitly teach using a computer to do so, nor does Hohl teach providing a network address where the respondent may access the survey. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to automate the survey methodology of Hohl

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to include sending an email to patients to request that they visit a specific web address to complete the satisfaction survey because the advantage of using a computer system over the Internet allows users to store data for later retrieval and also to transmit data between customers and managers regardless of physical location.

As per claim 7, Hohl teaches processing the survey answers to identify a customer satisfaction issue of the selected respondent includes automatically analyzing the survey answers received from the selected respondent based upon pre-established criteria that identify various customer satisfaction issues (page 4, paragraph 17 – the results are tabulated and aggregated to determine those questions with less than a 90 percent favorable response rate – those not meeting the 90 percent threshold are determined to be satisfaction issues and are investigated).

Claims 11-16 are directed to the system for performing the method of claims 1-7, therefore, the same rejection as applied to claims 1-7 is also applied to claims 11-16.

Claims 20 and 21 are directed to the system for performing the method of claims 1 and 5, therefore the same rejections as applied to claims 1 and 5 are applied to 20 and 21.

9. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohl, “Patient satisfaction in home care/hospice”, in view of Nanos et al, US 6,381,744.

As per claim 8, Hohl does not explicitly teach the information contained in the at least one database about the selected respondent includes a preferred language of communication. However, it is old and well known to incorporate language selection as evidenced by Nanos et al. Nanos et al teaches selection of a preferred language on the screen of the survey kiosk (fig 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to include

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preferred language selection so that the survey questions could be understood and answered by various respondents regardless of preferred language. The selection of preferred language makes the survey user-friendlier.

As per claim 9, Hohl does not explicitly teach providing a translation tool to a translator, the translation tool accessible by the translator at a third of the plurality of remote computers and providing the translator with the ability to translate each of the plurality of customer satisfaction questions into the preferred language of communication of the selected respondent and thereby produce a translated survey. However, it is old and well known to incorporate language selection as evidenced by Nanos et al. Nanos et al teaches selection of a preferred language on the screen of the survey kiosk (fig 4), wherein upon selecting a preferred language, the survey is translated into one of multiple languages (column 8, lines 44-50 and column 9, lines 17-25). It would have been obvious to one of ordinary skill in the art at the time of the invention to include preferred language selection to translate the survey into one of multiple languages so that the survey questions could be understood and answered by various respondents regardless of preferred language. The translation of the survey into one of multiple preferred languages makes the survey user-friendlier.

As per claim 10, the combination of Hohl and Nanos et al does not explicitly teach an approver reviews the translated survey before the translated survey is provided to the selected respondent. However, it would have been obvious to one of ordinary skill in the art that the translated survey would be approved prior to being provided to the respondent to ensure accuracy. The approval of the translation of the survey would make the survey more efficient.

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Claims 17-19 are directed to the system for performing the method of claims 8-10, therefore the same rejections as applied to claims 8-10 are applied to claims 17-19.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL

4/7/06

*Susanna M. Diaz*  
SUSANNA M. DIAZ  
PRIMARY EXAMINER

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